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Letter dated 31 December 2012 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council

I have the honour to transmit herewith the second report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004), which was submitted to the Security Council Committee established pursuant to resolution 1988 (2011), in accordance with paragraph (a) of annex I of resolution 1988 (2011).

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a document of the Security Council.

(*Signed*) Peter **Wittig**
Chair
Security Council Committee established
pursuant to resolution 1988 (2011)

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Second report of the Analytical Support and Sanctions Implementation Monitoring Team submitted pursuant to resolution 1988 (2011) concerning the Taliban and other associated individuals and entities

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I. Introduction

1. The objective of Security Council resolution 1988 (2011), as stated in its preambular paragraphs, is "to ensure that the present sanctions regime contributes effectively to ongoing efforts to combat the insurgency and support the Government of Afghanistan's work to advance reconciliation in order to bring about peace, stability and security in Afghanistan". In the present report, albeit only 16 months after the introduction of the regime, the Analytical Support and Sanctions Implementation Monitoring Team attempts to evaluate its success.

2. The sanctions regime established pursuant to resolution 1988 (2011) emerged from a 13-year incubation as part of the regime imposed pursuant to resolution 1267 (1999) and its successors, which focused on the threat to international peace and security posed by Al-Qaida, and included the Taliban in that context. Inevitably the 1988 (2011) sanctions regime retains many characteristics from its past, but unlike the 1267 (1999) regime it has a specific national focus with little emphasis on terrorism. The Team suggests ways in which the Security Council might continue to develop the distinct nature of the 1988 (2011) regime and so increase its relevance to the Afghanistan of today.

3. The international military intervention in Afghanistan that began in 2001 passed its eleventh anniversary on 7 October 2012, and the withdrawal of foreign forces has begun; but while the fighting has contained the insurgency, by no assessment has it brought it to an end. The international community is in full agreement that an Afghan-led peace process should take the place of military confrontation, but as yet there is no clear road map for how this should develop. The 1988 (2011) sanctions regime will certainly play a role whatever happens: no listed Taliban can hope to participate effectively in government while still on the sanctions list, and, if engaged in reconciliation talks, they will in all likelihood have to contend with the travel ban. Furthermore, the assets freeze can become an important tool for isolating those working against peace and stability in Afghanistan. The present report includes further proposals for an extended travel ban exemption mechanism[1] and for sharpening the impact of the assets freeze.

II. Sanctions List

A. Criteria for listing

4. The Sanctions List pursuant to resolution 1988 (2011) includes almost all of the most senior members of the Taliban.[2] Recent additions to the List have targeted Taliban financial networks, and this has further enhanced the relevance of the List to the current threat. However, most provincial leaders of the Taliban (see annex I) are not listed, including in several provinces where some Taliban networks take orders from an individual claiming to be appointed by the "Quetta Shura",[3] while others

[1] In its first report (S/2012/683, para. 57) the Team also suggested travel ban exemption mechanisms.

[2] See annex II. Currently there are 130 individuals and two entities on the List. See also the Team's first report (S/2012/683, paras. 22 and 23).

[3] Also known as the Kandahar Shura. "Quetta Shura" is a term commonly used to describe the most senior Taliban leadership but does not signify any fixed geographical location.

follow a leader professing loyalty to Sirajuddin Haqqani (TI.H.144.07). Furthermore, it is not only senior Taliban who stand in the way of peace, stability and security in Afghanistan, there are others involved as well.[4]

5. As stated in resolution 1988 (2011), the criteria for listing relate to activity in support of Taliban formerly listed under the sanctions regime established pursuant to resolution 1267 (1999), or that otherwise support those "associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan". In order to emphasize further the purpose of the new regime, the Team recommends that the Security Council consider adjusting the listing — and delisting — criteria to make it clear that they cover a broader range of activity than just fighting with or supporting the Taliban. Afghanistan faces many challenges to its security and stability, including the narcotics trade, maintenance of illegal armed groups,[5] corruption, electoral fraud, the prevention of humanitarian assistance and health programmes and the violation of human rights.[6] While the Committee established pursuant to resolution 1988 (2011) would need to examine any submission for listing on its merits, the Team believes that by broadening the criteria the Council would further emphasize that the regime is now country specific, with characteristics similar to other country regimes.[7]

B. Taliban links with Al-Qaida

6. The Team notes little fundamental change in the relationship between the Taliban and Al-Qaida since it reported on the subject in September 2011 (S/2011/790). Al-Qaida members and their associates are still present in Afghanistan,[8] most notably in the south-east, in areas around Kabul, and in specific areas in the east and north of the country. The value of Al-Qaida to the insurgency appears to be in planning and mounting suicide attacks, constructing improvised explosive devices (IEDs), raising money and helping the media campaign. Areas inside Afghanistan under Taliban control remain an attractive destination for Al-Qaida supporters; the Afghan tradition of offering hospitality to refugees ensures that they are welcomed and the insurgency offers training opportunities for radicalized young men aspiring to join a terrorist group. However, according to figures available to the Team,[9] the number of foreign insurgents, and more specifically those affiliated with Al-Qaida,

[4] Such as the Hezb-i Islami of Gulbuddin Hekmatyar (QI.H.88.03 on the Al-Qaida Sanctions List) and various violent extremists in eastern Afghanistan, as well as groups affiliated with Al-Qaida (QE.A.4.01), such as the Islamic Movement of Uzbekistan (QE.I.10.01), Lashkar-e-Tayyiba (QE.L.118.05), Lashkar i Jhangvi (QE.L.96.03) and Tehrik-e Taliban-e Pakistan (QE.T.132.11). Those groups also have Afghan members.

[5] As defined by the Afghan Government's programme to disband illegal armed groups.

[6] The Security Council, in the third preambular paragraph of its resolution 1988 (2011), expresses its strong concern that in addition to the activities of the Taliban and Al-Qaida, those of illegal armed groups, criminals and those involved in the narcotics trade also affect the security situation in Afghanistan. See also the eighth preambular paragraph on human rights.

[7] For example, Security Council resolution 1844 (2008) includes such criteria for listing as "obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia".

[8] By "Al-Qaida members", the Team refers to non-Afghan and generally non-Pashtun fighters, usually affiliated with a group listed by the Security Council under the Al-Qaida sanctions regime.

[9] In particular, statistics gathered by the Department of Safety and Security of the Secretariat and the International Security Assistance Force (ISAF), and as supplied by Pakistani and Afghan authorities.

has continued to fall and their presence is increasingly limited to specific areas of the country (see annex II).

7. Although there is a debate within the Taliban leadership as to the wisdom of continuing the partnership with Al-Qaida, those who speak out against it have so far been unable to persuade the majority, and may be singled out for assassination by Al-Qaida supporters to ensure that they do not.[10] Statements by senior Taliban, including Mullah Omar (TI.O.4.01), have contained muted criticism of the presence of Arabs in Afghanistan. For example, Mullah Omar's Eid al-Fitr message in 2012 welcomed the Arab Spring, as it allowed the return of the "refugees" to their native countries without fear of reprisal.[11] The proponents of this view argue that the partnership with Al-Qaida should be ended or modified in the medium term, for example by offering continued asylum to "persecuted" Al-Qaida figures in return for a pledge to live quietly. Many Taliban do not understand the likely opposition to this idea within the international community.

8. Even though all Taliban stress their nationalist objectives, some leaders close to Sirajuddin Haqqani pay at least lip service to broader issues by professing common cause with Al-Qaida, calling for its help in the "liberation" of Afghanistan, after which they would assist in further struggles against "apostate" regimes elsewhere.[12] What this might mean in practice is unclear, but as all but a few insurgents have never experienced a time of peace, there is a risk that some may continue fighting in Afghanistan or elsewhere, despite any peace agreement reached by their leaders. The majority Taliban position, however, remains as it was in the late 1990s: that direct struggle against "infidel occupation" is the duty of locally concerned Muslims only.[13]

C. Composition and maintenance of the List

9. While the Team notes the continuing links between Al-Qaida and the Taliban, it believes that the Security Council's decision to establish a new sanctions regime by separating the Taliban sections of the Consolidated List established pursuant to resolution 1267 (1999) from its Al-Qaida sections in June 2011 has created an effective tool for the promotion of international peace and security in Afghanistan. Some names remain on the Al-Qaida Sanctions List that the Team believes would be more appropriately included on the 1988 (2011) List, and, although there is no easy

[10] Mutasim Agha (formerly listed as TI.M.29.01), in media interviews dated 25 April, 14 May and 1 June 2012, said that he and like-minded members of the Taliban would support a broad-based Afghan Government and the transformation of the Taliban into a political party. In August 2012 Mutasim told the Team that a break from Al-Qaida was not possible at the moment as Al-Qaida still had too much influence over too many Taliban.

[11] In his Eid al-Fitr statement dated 16 August 2012, Mullah Omar repeated that the Taliban would not allow anyone to use the soil of Afghanistan against anyone, though with the usual caveat "in the light of its Islamic rules and national interests". Another Taliban statement released in 2012 on the anniversary of the 9/11 attacks stressed that "the Afghans have had no hand in the incident".

[12] Mulla Sangin (TI.Z.152.11), in a video entitled "A message to the Turkish People", posted on 30 July 2012, and repeated in a video entitled "Those Who Kept Their Promise", posted on 15 August 2012.

[13] This position of Mullah Omar (TI.O.4.01) is described extensively in Anne Stenersen, "Brothers in Jihad: Explaining the Relationship between al-Qaida and the Taliban, 1996-2001", PhD dissertation, University of Oslo 2012.

way to transfer them,[14] the Team recommends that where the Committee approves a submission for listing under the 1988 (2011) sanctions regime it add the name to the List regardless of whether it is already included on the Al-Qaida Sanctions List. The Al-Qaida Sanctions Committee can then consider the continued appropriateness of the parallel listing under its regime when it conducts its normal reviews. The Team suggests that in due course this will lead to more clarity and greater separation between the listing criteria of the two regimes, even though some individuals or entities may fulfil both sets and so appear on both lists.[15]

10. The Committee has continued to improve the quality of the List on the basis of information gathered by the Team during its frequent visits to Afghanistan and with the cooperation of Afghan provincial-level security officials. The entries for all listed individuals now have information on their date and place of birth, although several still lack a nationality. Taliban individuals have been able to acquire citizenship of countries other than Afghanistan, as well as alternative identities. The Team recommends that the Committee, in the case of new listing requests, strongly encourage the designating State to provide nationality details.

D. Impact of the regime

11. The impact of the sanctions regime depends on the extent to which listed Taliban see it as an impediment to achieving their goals of international legitimacy and power in Kabul. The Team has received reports that the Taliban have been taking note of delisting cases[16] and are encouraged by them; however, there are two short-term factors that undermine the impact of the sanctions regime on their strategy: (a) the Taliban do not accept the legitimacy of the Afghan Government and therefore oppose its considerable involvement in the decision-making processes of the Committee; and (b) the sanctions measures are a problem more for the international community than for the Taliban to solve. For example, the Taliban look to the United States of America to complete its side of the deal on prisoner exchange, disregarding the fact that the travel ban may get in the way. Undoubtedly, the Taliban believe that the United States can override any decision of the Security Council, but even if they did not, they would see the issue as one for the United States to resolve.

12. In the longer term, the Taliban may be concerned that any deal they make to share power must be endorsed by the international community and that without such endorsement, the sanctions measures would prevent them from exercising their authority. But as they believe that their key negotiating partners are Pakistan and the United States, rather than the Afghan Government, they assume that the sanctions measures will fall away once they have reached an agreement with those interlocutors.

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[14] The Committee established pursuant to resolution 1988 (2011) and the Al-Qaida Sanctions Committee have not yet reached a decision on a simplified transfer procedure proposed in the Team's report concerning linkages between Al-Qaida and the Taliban (S/2011/790), para. 53 (e).

[15] There is a precedent for duplicate entries in the Al-Qaida and the Somalia/Eritrea sanctions lists.

[16] Since the inception of the sanctions regime, the Committee has removed the names of 32 individuals, most of them in response to delisting requests from the Afghan Government. Of those delisted, 23 are still alive. Two individuals were assassinated by Taliban factions opposed to the peace initiatives of the Afghan Government, and two were assassinated by unknown persons, probably for personal reasons.

13. In the meantime, the Taliban are more concerned about the impact of the withdrawal of coalition forces and the fraying cohesion of their movement than decisions made by the 1988 (2011) Committee in New York.[17] If the Council and the Committee aim to play a significant role in moving Afghanistan forward towards peace through the sanctions regime, they face the challenge of imposing themselves more forcefully into the political process and will need a strategic approach to do so successfully. In addition, many of the States that are trying to help Afghanistan move towards peace, stability and security are doing so without recognizing that the Committee has much of a role to play, and they often appear to regard the sanctions measures as more of a hindrance to their efforts than a help.

14. The Team recommends that the Committee address this issue by determining a specific role for the sanctions regime in achieving the Security Council's objective, stated in its resolution 1988 (2011), of ensuring that the present sanctions regime "contributes effectively to ongoing efforts to combat the insurgency and support the Government of Afghanistan's work to advance reconciliation in order to bring about peace, stability, and security of Afghanistan" and then explain it to Member States and the public at large. Without a clear strategic approach, the potential of the sanctions regime will evaporate and the great effort by the Committee and Member States to ensure its implementation will be wasted. An important element of this strategic approach might be to ensure that the Committee is aware of the various initiatives to promote reconciliation and sees to it that they complement and mutually reinforce one another, while taking full account of the obligations imposed on all States by the sanctions regime.

III. Reconciliation

15. Initial attempts by Afghanistan to promote reconciliation did not succeed;[18] however the creation of the Afghan High Peace Council in 2010, the splitting of the Taliban and Al-Qaida sanctions regime by the Security Council in 2011 and moves towards the establishment of a Taliban political office in Qatar in 2012 have given some momentum to a process that was always going to be slow. Fortunately, the consensus in Afghan society to pursue a peaceful settlement of the insurgency has survived the assassination of the High Peace Council's Chair, former President Burhanuddin Rabbani, on 20 September 2011, and of a senior negotiator, Maulawi Arsala Rahmani, on 13 May 2012. In a meeting with the Team on the first anniversary of his father's death, Salahuddin Rabbani, the new Chair of the High Peace Council, reaffirmed his determination to continue to pursue peace despite aggressive opposition.[19]

16. The Taliban themselves have responded cautiously. They aim to establish a quasi-ministry of foreign affairs in Qatar as a way to achieve some form of

[17] The repetition of appeals by Taliban leader Mullah Omar, including in his Eid al-Adha message of 24 October 2012, for the Taliban to maintain their cohesion implies that previous appeals in the same vein have not been effective.

[18] The earlier programme led by former President Sibghatullah Mujadiddi, the Program-e Tahkim-e Sulh, was established in 2003, and while it claimed to be successful in certain provinces, it lacked a national framework and has now become a commission for resolving local grievances.

[19] For example, Professor Abdul Rabb Rasul Sayyaf proposed that Taliban be killed rather than talked to and that suspected suicide bombers be quartered and hung from the various gates of Kabul.

international legitimacy and to engage the United States in discussions of a prisoner exchange, but the Taliban emissaries in Qatar have no authority to discuss internal Afghan affairs and reflect the continued Taliban refusal to talk to the Afghan Government. The Taliban leadership appears determined to keep the pace and substance of negotiations under its close control and has been quick to disown senior colleagues who have taken independent political initiatives.[20]

17. The Afghan Government and the international community have demonstrated their willingness to address Taliban demands, in particular in respect of prisoner release and the removal of Taliban names from the 1988 (2011) Sanctions List and by beginning the withdrawal of foreign forces. Previous preconditions for talks have thus become necessary outcomes. The Taliban response has been limited by disagreements within the movement, but all agree that a prisoner exchange involving five Afghan detainees at Guantanamo Bay and a United States soldier, Sergeant Bowe Bergdahl,[21] should take place. Little is likely to happen beforehand.

18. Even then, the negotiation of an appropriate role for the Taliban in government is likely to be slow and tortuous, and will require many confidence-building measures along the way, to reassure not only the Afghans involved, but also the regional Powers and other States with a legitimate interest. Insofar as the 1988 (2011) sanctions regime allows the Security Council to have direct involvement in the reconciliation process and is essentially the only lever it has, the Team recommends that the Council consider urging all parties involved in talks to provide the Team, the United Nations Assistance Mission in Afghanistan (UNAMA) or a representative of the Secretary-General appointed for the purpose with information on their engagement to ensure some coherence, coordination and transparency with regard to the many initiatives that still exist. The Team believes that reconciliation will not move forward unless all relevant parties know what is going on and have a chance to comment.

19. The Team is well placed to promote confidence-building measures on behalf of the Security Council as part of its role in explaining to all sides the obligations imposed by resolution 1988 (2011) and in promoting the implementation of the measures. Although UNAMA provides unparalleled assistance as an effective channel of communication between the Committee and the Afghan Government, there is no question that trips by the Team to Kabul and elsewhere, both inside and outside of Afghanistan, are vital adjuncts to this day-to-day interaction. The Team recommends that the Council consider giving it a specific role in the promotion of reconciliation within the framework of the Security Council's broader objective of using the sanctions regime to promote peace, stability and security in Afghanistan.

20. Before the adoption of resolution 1988 (2011), the Team had been dealing with Afghan issues in the context of the 1267 (1999) sanctions regime for more than seven years and has established a level of knowledge and expertise that presumably the Security Council would not want to waste. The Team is approaching the end of its mandate, but will do what it can to ensure that its successors enjoy the same level of confidence with its key interlocutors. The conclusion of the Team's mandate

[20] For example, Mutasim Agha and Ismail Andar were both accused of financial irregularities and unauthorized contacts. Mutasim has described delisting as "a serious measure in bringing a peaceful atmosphere for Afghanistan" (e-mail dated 13 August 2012). The Taliban spokesman disowned Mutasim Agha on 14 August 2012.

[21] Bergdahl is the only member of the coalition forces in Taliban hands. He was captured in July 2009.

offers the Council an opportunity to delink further the 1988 (2011) sanctions regime from the Al-Qaida sanctions regime by establishing two teams under the same Coordinator, and the Team recommends that the Council consider this option.[22] Short of this, the Security Council could expand the Team to reinforce its Afghan expertise. It might also bring its mandate more in line with the mandates of other expert groups that support country-specific sanctions regimes by including the authority to recommend names for listing that meet the criteria set by the Security Council. The Team does not recommend the establishment of two completely separate teams, although this may be an option for the future.

IV. Implementation of the sanctions

A. Assets freeze

1. Taliban funding

21. Several interlocutors have reported to the Team that the Taliban have experienced a financial squeeze in 2012, partly as a result of the capture or defection of top financial officers,[23] partly because of the reduction in trucking contracts and partly because of a poor poppy crop. Senior Taliban have tried to fill the shortfall by fundraising in Gulf States, and lower-level commanders have increased their efforts to raise local taxes. Most Taliban units in Afghanistan now appear to survive on their own resources, which may cause resentment among the local population, which willingly or unwillingly must provide for them.

22. Taliban financial management is currently in the hands of Gul Agha Ishakzai (TI.I.147.10) and Abdul Jalil Haqqani (TI.A.34.01). Akhtar Mohammad Mansour (TI.M.11.01) helps to raise taxes from the narcotics business. Recent additions to the 1988 (2011) Sanctions List have included other individuals and entities involved in Taliban financial structures[24] and have resulted in the freezing of accounts. This will have a deterrent effect, as well as further disrupting Taliban financial arrangements.

23. Current circumstances in Afghanistan make it difficult to implement an effective regime to counter money-laundering and terrorist financing, but the Government of Afghanistan has nonetheless made progress. In June 2012, Afghanistan made a high-level political commitment to work with the Financial Action Task Force (FATF) and the Asia/Pacific Group on Money Laundering to address strategic deficiencies in those areas. In support of that commitment, the Team has provided extensive comments on the proposed changes to the Afghan law on combating the financing of terrorism.

24. The Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA) has continued its progress in registering *hawalas* and gaining their support in monitoring suspicious transactions, and the Team has continued to promote

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[22] The present Team is mandated to assist both the 1988 (2011) Committee and the Al-Qaida Sanctions Committee.

[23] Such as the defection of Mutasim Agha, the capture of Mali Khan and Taliban suspicion of Ismail Andar.

[24] For example, Haji Khairullah Haji Sattar Money Exchange (TE.H.10.12), Roshan Money Exchange (TE.R.11.12), Fazl Rabi (TI.R.157.12), Ahmed Jan Wazir (TI.W.159.12), Bakht Gul (TI.G.161.12), Ahmad Zia Agha (TI.A.156.12) and Mohammad Aman Akhund (TI.A.158.12).

FinTRACA's working relationships with partners in other States.[25] The Afghan Government established FinTRACA in 2004 as its financial intelligence unit, and much remains to be done, but the progress over the past three years is impressive, and the Team recommends that the Committee mandate its successor to maintain direct contact and seek ways to consolidate and increase the capacity of FinTRACA.

25. The effectiveness of FinTRACA and its cooperation with other financial intelligence units will improve to the extent that the Committee is able to sharpen its engagement with countries in which, in all likelihood, the Taliban have their assets. There is currently no requirement for States to report on the steps they have taken to implement the assets freeze measure, and the Team recommends that the Committee mandate its successor to seek from members of the Asia/Pacific Group on Money Laundering updates on their efforts to locate and freeze the assets of listed Taliban and to share that information with FinTRACA.

26. The Taliban have profited from extortion operations targeting companies involved in the reconstruction and development of Afghanistan. Although under established procedures United Nations agencies, funds and programmes should check their vendors against sanctions lists, this does not always happen. One major donor, the United States, has introduced rules to ensure that its contractors do not provide funds, directly or indirectly, to a person or entity actively supporting the insurgency, and the Team recommends that the Committee welcome such steps and encourage all Member States and United Nations agencies to follow similar procedures, in cooperation with the Monitoring Team.

2. Exemptions to the assets freeze

27. In common with the Al-Qaida sanctions regime, exemptions to the assets freeze are governed by resolution 1452 (2002), as amended by resolution 1735 (2006), under which States are allowed to grant exemptions for listed parties to meet basic expenses as long as they have notified the Committee and the Committee has expressed no objection, and to apply on a listed party's behalf for exemptions to meet extraordinary expenses, which requires Committee approval. The resolutions provide some guidance as to what sort of payments might fall into those categories, but so far no notification or application has been made concerning any entry on the 1988 (2011) Sanctions List.

28. As part of the process of splitting the 1988 (2011) sanctions regime from the Al-Qaida sanctions regime, the Team recommends that the Security Council consider incorporating an exemption procedure within the regime itself, as is the practice with other country-specific sanctions regimes. This would allow the Committee to facilitate in particular exemptions that are in support of reconciliation talks. The Security Council could also consider the specific potential need to deliver humanitarian assistance or medical programmes, such as polio vaccination, through listed parties in areas under their control. As well as providing vital help to local people, agreements with the Taliban in such cases can be effective confidence-building measures. By allowing such exemptions while requiring that it be kept informed of the details, the Council, through the Committee, can improve implementation, have more impact on the ground and make better judgements as to the attitudes of the listed parties involved.

[25] Also in conjunction with the United Nations Office on Drugs and Crime

B. Travel ban

29. The travel ban measure potentially has particular importance for the 1988 (2011) sanctions regime. Many listed Taliban are reported to live outside of Afghanistan and may need to travel to other countries to participate in reconciliation talks or otherwise promote a political process. While the porous nature of the border makes it comparatively easy for Taliban members to travel between Afghanistan and Pakistan, and there have been instances of listed Taliban travelling to other countries under different names, travel in conjunction with any Member State initiative to encourage reconciliation is a more serious matter. In this case, the country organizing the meeting, the country in which it takes place and the country to which the listed Talib intends to return must all be party to an application for a travel ban exemption or risk the consequences and the embarrassment of non-compliance.

1. Exemptions to the travel ban

30. The Committee has developed guidelines for granting exemptions to the travel ban for personal reasons, which so far have worked well,[26] but the Afghan Government and other States look for more flexibility, responsiveness and confidentiality than is allowed by the present rules for travel for political reasons. In its first report to the Committee, the Team suggested several ways in which the Committee could achieve more flexibility in granting exemptions to the travel ban (see S/2012/683, para. 57), but while the Committee agreed to consider them, it has come to no conclusion as to their merit.[27] The Team believes that this is in part because the Committee has not yet faced requests for exemptions that it has found difficult to deal with. The Team recognizes, however, the argument made by the Afghan Government and others that the current arrangements may prove inadequate should the reconciliation process pick up speed or increase in complexity.

31. Furthermore, the Team is concerned that in the absence of a more flexible and responsive system of exemptions, Member States may disregard the travel ban in the interest of moving a reconciliation process forward. Apart from undermining the relevance and impact of the sanctions regime, such action would weaken the position of all parties to the talks except the Taliban. The details of non-compliance would be sure to emerge, especially if the initiative were successful, and so pose a challenge to the authority of the Security Council under Chapter VII of the Charter of the United Nations. The damage would be even more severe if the decision to ignore the travel ban had been taken by a member of the Council. It is unlikely that the Taliban would be oblivious to this fact, and they might well use the precedent to undermine the sanctions regime more widely.

32. Further proposals for exemptions[28] are provided below. One suggestion has been to lift the travel ban altogether. This, however, would mean gutting the sanctions regime of much of its coercive power, and it is unlikely that the Security Council would agree. A variation would be to lift the travel ban on a temporary basis from a group of named Taliban who are agreed peace envoys. In this case, the Team

[26] For example, the Committee allowed Mutasim Agha, now delisted, to go to Turkey for health reasons after he was wounded in an assassination attempt.

[27] See position of the Committee on the recommendations contained in the Monitoring Team's first report (S/2012/684), para. 4.

[28] In addition to those contained in the Team's first report (S/2012/683), para. 57.

believes that the list of envoys should be submitted by the Taliban leadership, which would at the same time bind the leadership into the process, secure its recognition of the travel ban and determine who was able to speak with authority.[29] The Team recommends that the Committee ask the Afghan Government to invite the Taliban to put forward the names of people who are empowered to speak on their behalf so as to be able to examine this option further on the basis of the individuals proposed. The Committee could then allow named individuals to travel in support of reconciliation talks as required, subject to a periodic review (e.g. every six months).

33. A related suggestion is for the Committee to allow any travel between two points, for example Karachi and Qatar, for all listed individuals. Although this would presume any meaningful negotiations would take place only in certain identified locations, the Committee could adjust the detail of the exemption as the need arose. If the Security Council wished to restrict this exemption, it could limit its application to the agreed list of peace envoys. In order to monitor the exercise of this exemption beyond a requirement on the Afghan Government to report any travel of listed individuals that took place, the Committee could request the Monitoring Team to report on its value at regular intervals (e.g. every six months), after consultation with the Afghan Government.

34. A further proposal is to allow all listed Taliban a special exemption to travel in conformity with their religious obligations to perform the hajj or umrah. This would involve their travel to Saudi Arabia, and the Saudi authorities would have to confirm that they had no objection and that they would report such travel to the Committee. Performance of a pilgrimage allows ample opportunity for private meetings, and the general exemption would help to allay concern that anyone involved in reconciliation talks, whether on behalf of the Taliban or just a portion of it, might be in danger of reprisal or unhelpful exposure. This idea also overcomes the potentially awkward issue that a travel ban exemption requires details of the place of departure and return, as well as of destination.

35. The Afghan Government and some representatives of Security Council members in Kabul continue to suggest that they form a subcommittee empowered by the Council to grant travel ban exemptions locally in consultation with the Afghan Government. The Team does not see any advantage in this proposal, even if the members of the Committee without representatives in Kabul were to agree. The Committee acts by consensus and on most issues decisions are taken in capitals; the Team believes that the same process of consultation would be necessary wherever Committee members met, and so the saving in time would be negligible if it existed at all. Furthermore, the Afghan Government already has extensive influence over the process of exemptions and can convey its opinion to the Committee through UNAMA and/or the Team with minimum delay.

36. The Team does not support the idea that the Committee should delegate its authority to grant travel ban exemptions to the Special Representative of the Secretary-General for Afghanistan as an extension of his current role as a facilitator of communications between the Afghan Government and the Committee. The Special Representative is often outside of Kabul and, even when in residence, cannot be expected to have the same access to information as the collective

[29] The Taliban may find it hard to refuse an invitation to nominate peace envoys, as they have often complained that the international community engages people who are not authorized to speak on behalf of the movement.

membership of the Committee. Furthermore, the decisions taken by the Committee are political, not technical. In addition, the Special Representative would be in an invidious position if asked by the Afghan Government, with which he must work in close cooperation on a whole range of issues, to grant an exemption in a case that he thought was inappropriate. It would be more effective to grant the power of allowing exemptions to the Afghan Government itself, a proposal that the Afghans would endorse wholeheartedly.[30]

37. An issue that the reconciliation process may soon confront is how to allow an exemption to the travel ban for the four listed Taliban who are in detention at Guantanamo Bay, whose indefinite relocation to Qatar as part of a confidence-building prisoner exchange currently under negotiation with the Taliban.[31] The travel ban exemption process envisages a temporary exemption and a two-way trip, and although the Committee could deal with a more permanent move on a case-by-case basis, it would be wise to consider what it could agree to before being asked to do so. The Team sees no fundamental problem with the Guantanamo prisoners being transferred to Qatar and remaining under sanctions there; it would certainly seem preferable to their exercising their right to return to Afghanistan as their State of citizenship, unless they had clearly renounced their support for violence.

38. In addition to allowing listed individuals to return to their State of nationality, the travel ban permits an exemption without the need for Committee agreement "where entry or transit is necessary for the fulfilment of a judicial process".[32] In the explanation of terms paper for this exemption, as approved by the Committee, it is noted that the exemption includes travel necessary for the purposes of identification, testimony or other assistance relevant to the investigation or prosecution of an offence committed by someone other than that listed individual, or in relation to civil proceedings. The Afghan Government and its allies may wish to examine many aspects related to the conflict in Afghanistan over the past 30 years, and listed Taliban could be invited to help identify potential crimes as part of a reconciliation process.[33] In this case, the Committee could agree that travel was permitted under existing rules.

39. In all cases, the Team recommends that the Committee make it clear that it may cancel an exemption or reimpose the travel ban on any individual who abuses the system or who uses the opportunity of travel to raise money for the insurgency or to otherwise work against reconciliation.

2. Enhancing the impact of the travel ban

40. The Afghan Government is in the process of building a biometric database of its citizens and introducing a new identity card system. If completed and made operational throughout the country, this will help considerably in discovering false

[30] The Security Council could allow this by making participation in reconciliation talks an automatic ground for exemption.

[31] These Taliban leaders are Fazl Mohammad Mazloom (TI.M.23.01), Abdul-Haq Wassiq (TI.W.82.01), Nurullah Nuri (TI.N.89.01) and Khairullah Khairkhwah (TI.K.93.01). A fifth person sometimes mentioned in press reports is not listed.

[32] Security Council resolution 1988 (2011), para. 1 (b).

[33] The Taliban have repeatedly asked for investigations by joint Taliban-United Nations teams into cases of civilian casualties and the abuse of prisoners; these investigations could be broadened and become confidence-building measures.

identities used by listed people. As the International Security Assistance Force has also collected large amounts of similar information, it will be important that the two databases be combined before ISAF withdraws.

41. The use of false or misleading identity documents by listed Taliban has presented a challenge to the implementation of the travel ban. In many cases, however, the travellers are prominent members of the movement and do nothing to disguise their appearance. The Team recommends that when a State becomes aware that a listed individual has crossed its borders under an assumed identity or by using unlisted identifiers, it inform the Committee or the Team immediately and facilitate an update to the relevant list entry.[34] Failure to provide such information shows a lack of support for the regime and undermines its impact. Although incidents of listed individuals travelling under alternative identities are bound to occur, they should not be repeated. The Committee could make it clear to States that it may take no action in cases of violation of the travel ban where such violation has occurred unintentionally as a result of the first use of an unknown or false identity that is not provided in the relevant list entry, but that it will not overlook repeat trips under that identity to the same State once the true identity of the traveller is known.

42. The Team also recommends that the Committee encourage the Afghan Government to ensure that its consulates do not issue identity documents to listed Taliban without immediately providing the information to the Ministry of Foreign Affairs, which should then forward it without delay to the Committee or to the Team for addition to the list entry.

43. As at 31 October 2012, INTERPOL had posted on its restricted website approximately 120 INTERPOL-United Nations Security Council Special Notices relating to individuals listed under the 1988 (2011) sanctions regime, 110 of which are also available on its public website. There are no notices relating to listed entities. As these notices may carry biometric or other details not available on the Sanctions List, the Team recommends that the Committee do what it can to increase their number and encourage States to alert their immigration authorities to their existence and value.

44. The Team stands by the recommendations in its first report, which included: (a) shortening the Committee's decision-making processes for all travel ban exemptions, not just those granted for humanitarian emergencies; (b) notifying only the relevant States of an exemption rather than posting the details on its website; (c) allowing variations to granted exemptions; and (d) involving the Afghan Government to the extent possible in the process (see S/2012/683, para. 57).

C. Arms embargo

45. The arms embargo imposed by the Security Council in its resolution 1988 (2011) is a continuation of the embargo imposed by resolutions 1333 (2000) and 1390 (2002) under the 1267 (1999) sanctions regime and is aimed more at the situation as it was then than as it is now. In the intervening period, the Taliban have lost control of Afghanistan but have recovered sufficiently to challenge the State as a well-armed and adequately trained insurgent body. The levels of violence have risen accordingly, and although they have swung back to the levels of 2009 and

[34] See, for example, Security Council resolution 1989 (2011), para. 48.

2010 after a spike in 2011, there is no evidence to suggest that the Taliban have lost any of their punch. The Taliban are no match for ISAF forces in a conventional military confrontation, but their asymmetrical tactics of insurgency have proved grindingly successful, and they are likely to be just as well-motivated, well-trained and well-equipped as the Afghan National Security Forces (ANSF) once ISAF has withdrawn. If no peace deal has been reached by then, it is likely that levels of violence will rise again and the campaign of insurgent warfare will take on the characteristics of a more direct military confrontation.

46. Most casualties caused by the Taliban, whether amongst civilians or security forces, result from improvised explosive devices. Most IEDs are made from ammonium nitrate-based fertilizer, which, although banned in Afghanistan, is widely used elsewhere in the region. In addition to ammonium nitrate, the Taliban increasingly use potassium chloride in their IEDs, as well as industrial-strength explosives such as Emulite. Despite more frequent and larger seizures by Afghan and ISAF forces, the availability of materials for IEDs appears to be limited only by the money available to buy them and the training available to use them. The arms embargo is therefore of less relevance to the Taliban than the assets freeze.

47. The free availability of small arms, ammunition and explosives allows the Taliban to sustain their campaign of violence. Most firearms and ammunition are sourced locally, with some reportedly coming from ANSF and private security company stocks, having been sold to brokers or directly to the Taliban. Specialized equipment, such as pistols with silencers, artillery rockets, electronic IED components and industrial explosives, is more likely to be imported across the borders. Such weapons are popular with the Taliban for assassinating reconciling fighters and commanders or community leaders perceived to be insufficiently supportive of the insurgency. Afghan officials are unable to offer effective security even to members of the High Peace Council on a consistent basis, and therefore opponents of the Taliban must generally organize their own protection. This general lack of security leads to more people possessing arms, whether for offensive or defensive purposes.

48. While there has been speculation as to the causes of the reported increase in losses of rotary-wing aircraft, the Team knows of no confirmed presence of man-portable air defence systems in the hands of the Taliban, despite a Taliban publication implying their possession of them in the summer of 2011.[35]

49. Training in IED construction is reportedly still carried out face-to-face, usually through specialist "workshops" for which trainers come into Afghanistan under Taliban protection. They then tour the country, passing on their skills. According to many reports these trainers are not Afghans, but foreigners linked to Al-Qaida. There is less need for training in the general use of arms, as Afghan culture demands that most adult males own and know how to use firearms. In addition, the high level of turnover in ANSF makes it likely that some Taliban have received training in the Afghan police or (more rarely) the army.[36] The difficulties of vetting recruits for these forces at a time of their rapid growth have been exposed recently by an increased number of insider attacks against partnered ISAF personnel. The Taliban

[35] See Taliban magazine *In Fight*, June 2011.

[36] Although numbers vary, official reports suggest that of the approximately 8,000 new recruits to the Afghan national army each month, not more than 1,500 sign up for continued service after their first one-year contract.

also have access to a mobile specialized training facility for suicide attackers and complex missions, which is run by the Haqqani network in the Afghanistan/Pakistan border area between Paktika in Afghanistan and Waziristan in Pakistan, and draws on both Afghan and non-Afghan trainers.

50. Given the particular circumstances of Afghanistan, the Security Council and the Committee may find it difficult to make the arms embargo more effective. However, Afghan and coalition forces have gathered a considerable amount of information about the materials and methods used by the Taliban in their attacks, although all too often this remains classified. The Team recommends that the Council, and particularly those of its members who are engaged in combating the Taliban directly, urge the Afghan authorities and their partners to share information with the Team that would help the Committee to identify breaches of the arms embargo.

Annex I

Overview of the Taliban provincial leadership

1. The present overview of the Taliban provincial leadership as at 31 October 2012 draws on information collected by the Team during its visits to Afghanistan, including from Afghan security officials at the provincial level. It provides an update of the table included in the annex to the Team's first report (S/2012/683), which presented information collected between January 2010 and March 2012.

2. A corps of "shadow governors" directs Taliban operations in the provinces, reporting to different groups within the Taliban leadership. In Kunar and Wardak, shadow governors claiming their legitimacy from the "Miramshah Shura"[a] (the so-called Haqqani network) are active in parallel with one appointed by another Taliban shura. In Baghlan and Wardak, shadow governors professing loyalty to Gulbuddin Hekmatyar (QI.H.88.03) act in competition with those appointed by the Taliban.

3. Of Afghanistan's 34 provinces, 3 do not have a Taliban shadow governor and are in general not affected by the insurgency (Bamyan, Daikundi and Panjsher). In two provinces, security forces neutralized the incumbent shadow governor in October 2012, pointing to the highly dynamic situation on the ground. Of the 33 individuals recorded below, 6 appear on the 1988 (2011) Sanctions List.

Taliban provincial "shadow governors"

Badakhshan	Mawlawi Shabir Ahmad
Badghis	Mawlawi Abdul Quddus
Baghlan	Mawlawi Muhammad Yunus
Balkh	Mullah Ghausuddin
Bamyan	*None appointed*
Daikundi	*None appointed*
Farah	Mulla Amin
Faryab	Mullah Yar Muhammad (killed on 24 October 2012) replaced by Ataullah Umari
Ghazni	Mulla Rahmatullah
Ghor	Mawlawi Abdul Khaliq
Herat	Abdul Ghani Ehsan
Helmand	Mohammad Naim Barich also known as Mawlawi Gul Muhammad (TI.N.13.01)
Jawzjan	Mawlawi Ismail
Kabul	Mawlawi Abdul Hadi Pashayewal also known as Malek
Kandahar	Mulla Muhammad Isa

[a] The use of terms such as "Miramshah Shura", "Peshawar Shura" and "Quetta Shura" signify leadership groups rather than geographical locations.

Kapisa	Abdul Ghafar Shafaq
Khost	Sirajuddin Haqqani (TI.H.144.07) replaced Nur Qasim, who was sent to Kunar
Kunar	Mawlawi Abdul Rahim ("Peshawar Shura"), Nur Qasim ("Miramshah Shura")
Kunduz	Mawlawi Abdul Rahman (arrested on 19 October 2012) replaced by Malawi Alaudin
Laghman	Zar Muhammad
Logar	Abdul Latif Mansur (TI.M.7.01)
Nangarhar	Abdul Jabbar Zabuli (TI.O.88.01)
Nimroz	Mullah Abdul Qayyum
Nuristan	Mawlawi Dost Muhammad
Paktika	Mawlawi Sangeen Zadran (TI.Z.152.11)
Paktya	Muhammad Gul
Panjsher	*None appointed*
Parwan	Mullah Matiullah
Samangan	Mawlawi Ziya ar-Rahman
Sari Pul	Damullah Nader Haqju
Takhar	Qari Ishaq
Uruzgan	Mullah Shafiq Akhund (TI.A.106.01)
Wardak	Mullah Abdullah Mullakhel also known as Fahim ("Peshawar Shura"), Najibullah ("Miramshah Shura")
Zabul	Sharafuddin

Annex II

Foreign fighters and Al-Qaida presence in Afghanistan

1. The Team conducted its first analysis of foreign fighters on the Afghan battlefield in its report on linkages between Al-Qaida and the Taliban (S/2011/790, annex), with data available to mid-September 2011. The present annex provides an update.

2. The daily reports produced by the Department of Safety and Security of the Secretariat refer to 118 foreign anti-Government elements killed in Afghanistan and 77 captured between 1 September 2011 and 30 September 2012. Daily press briefings by the International Security Assistance Force (ISAF) for the same 13 months paint a similar picture;[a] they record 103 individuals killed and 136 arrested in 16 of the 34 provinces in Afghanistan, with the preponderance of activity in the north-east corner of the country. The reports show little change in the distribution of foreign fighters and those suspected of association with Al-Qaida and its affiliates since September 2011, with a high number killed in areas under the control of the Haqqani network and in the east of Afghanistan, and arrests inevitably more frequent in cities where the higher density of intelligence service, police and army personnel make this possible. Compared to figures for 2011, the number of foreign fighters in Afghanistan has fallen.[b]

3. It is also evident from the tabular overview below that not all foreign fighters are part of Al-Qaida and that not all of those linked to Al-Qaida are non-Afghan nationals. In particular, reports mentioning the Al-Qaida-affiliated Islamic Movement of Uzbekistan show that the overwhelming majority of its killed and arrested fighters are Afghans. According to the reports, foreign fighters in the south of Afghanistan are almost all of Pakistani origin. They appear as individuals or in pairs, and are connected with the transfer of improvised explosive device technology or components. In the south-east and east, reports mention a more diverse composition of foreign fighters, frequently recording the presence of nationals of Saudi Arabia, Turkey and countries in Central Asia and Western Europe.

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[a] With regard to the analysis of ISAF press releases, the Team has for the present report, in contrast to its previous report on the subject, counted all individuals killed or detained as a result of ISAF targeting of Al-Qaida and affiliated organizations, such as the Islamic Movement of Uzbekistan. In most cases these individuals appear to have been Afghans. In the previous report, the Team had attempted to record only non-Afghan individuals.

[b] Between 1 January and 30 September 2012, the Department of Safety and Security reports mentioned 71 foreign fighters killed and 42 arrested. In 2011, the Department's reports mentioned 92 dead and 68 arrested foreign fighters over approximately the same period (1 January-18 September).

Distribution of foreign fighters killed and arrested and individuals suspected of links with Al-Qaida and affiliated organizations by province, 1 September 2011-30 September 2012

Province	*Foreign fighters arrested*	*Foreign fighters killed*	*Al-Qaida arrested*[a]	*Al-Qaida killed*[a]
Badakhshan	3	6	16	15
Badghis	–	2	–	–
Baghlan	–	–	2	–
Faryab	–	–	2	8
Ghazni	3	12	15	2
Helmand	9	2	1	–
Kabul	18	–	–	–
Kandahar	20	11	–	–
Kapisa	–	1	–	–
Khost	7	22	–	3
Kunar	5	3	–	50
Kunduz	–	1	55	2
Laghman	–	–	3	–
Logar	–	1	3	–
Nangarhar	6	–	13	6
Nimroz	–	2	–	–
Nuristan	–	–	–	4
Paktika	1	4	–	1
Paktya	2	31	1	–
Takhar	–	–	20	11
Wardak	–	14	5	1
Zabul	3	6	–	–
Total	**77**	**118**	**136**	**103**

[a] *Source*: ISAF.

Distribution of foreign fighters and Al-Qaida associates killed and arrested, 1 September 2011-30 September 2012